

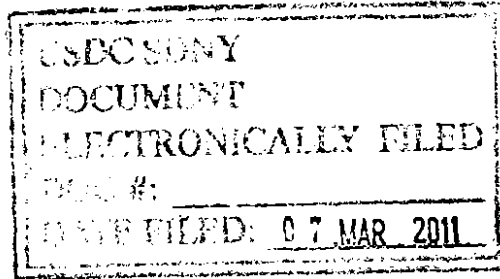
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**MEMO ENDORSED**

By Hand Delivery

March 4, 2011

Honorable Laura T. Swain  
United States District Judge  
Daniel Patrick Moynihan U.S. Courthouse  
500 Pearl Street  
New York, NY 10007

Re: Ergon, Inc. et al. v. NYMagic, Inc. et al., No. 11 Civ. 1080 (LTS)(FM)

Dear Judge Swain:

We are counsel for Plaintiff in the above referenced matter. The Complaint in this case was filed and the Summons issued on February 16, 2011. Accordingly, pursuant to Rule 4(m) of the Federal Rules of Civil Procedure, Plaintiffs are accorded until July 18, 2011 to serve the Summons and Complaint upon the Defendants and file the Proof of Service with the Court.

Your Honor issued the Initial Conference Order ("Order") dated February 25, 2011 (filed on 1<sup>st</sup> March, 2011) that directs Plaintiff to serve a copy of the Order upon the Defendants within fourteen (14) days of the Order. Plaintiffs, however, will not have served the Summons and Complaint upon Defendants by the deadline set by the Court for service of the Order.<sup>1</sup> Accordingly, Plaintiffs respectfully request that the Court delay the initial conference until after Defendants have been served with the Summons and Complaint.

*The Initial Conference Order may be served with the summons and complaint. The request for adjournment of the initial conference is denied without prejudice to renewal if plaintiff is unable to effectuate service or obtain a waiver before April 8, 2011.*

*SO ORDERED,*

KA

*Kanishka Agarwala 3/7/2011*

Respectfully,

*Kanishka Agarwala*

Kanishka Agarwala

<sup>1</sup> The Court has ordered a pre-trial conference to be held on May 20, 2011. This date also is in advance of the 120-day period accorded to Plaintiffs under the Federal Rules of Civil Procedure to serve Defendants with the Summons and Complaint.